



Public Notice

U.S. Army Corps of Engineers, Norfolk District

February 2, 2007

CENAO-REG
00-R2543

JOINT FEDERAL/STATE PUBLIC NOTICE

The District Engineer and the Virginia Department of Environmental Quality have received a prospectus to expand a compensatory wetland mitigation bank for Federal and State permits as described below:

BANK SPONSOR

York River Wetlands Mitigation Landbank, L.L.C.
4159 Spring Run Road
Mechanicsville, Virginia 23116

WATERWAY AND LOCATION OF THE PROPOSED WORK: A. York River Wetlands Mitigation Bank, L.L.C. (hereinafter, the Sponsor) proposes to establish a compensatory stream and wetland mitigation bank to provide compensation for unavoidable impacts to nontidal wetlands and other waters of the United States in the York River drainage basin. The sponsor currently proposes to incorporate stream mitigation activities beyond those approved as part of the first addendum (stream preservation). Addendum 2 contains a total of 26,523 LF of high quality to degraded perennial and intermittent streams and additional undetermined amount of ephemeral resources. The sponsor owns a total of 959 acres located in King William County, Virginia. The Bank is located approximately three miles east of Hanover, Virginia (Figure 1-1). The Bank is bordered by Normans Bridge Road (Route 614) to the west and Millpond Creek to the east. The Bank also contains the main stem of Hornquarter Creek and is bordered by approximately three miles of the Pamunkey River to the south (Figure 1-2).

PROPOSED WORK AND PURPOSE: The York River Wetlands Mitigation Bank, L.L.C. (hereinafter, the Sponsor) proposes to establish a compensatory stream and wetland mitigation bank to provide compensation for unavoidable impacts to nontidal wetlands and other waters of the United States in the York River drainage basin. Addendum 2 incorporates stream mitigation activities primarily associated with stream enhancement and restoration activities. Three small areas of stream preservation are also being included in the proposal. The approved Mitigation Banking Instrument (MBI) will be amended to include the stream credits derived from stream preservation, enhancement, and restoration, as depicted on the Master Plan. Detailed information regarding credits, debits, success criteria, and monitoring and reporting requirements will be submitted as an Addendum to be approved by the Mitigation Bank Review Team (MBRT). The amended MBI and the development and operation of the Bank will be in accordance with the "Federal Guidance for the Establishment, Use and Operation of Mitigation Banks," published in Volume 60, Number 228 of the Federal Register, November 28, 1995.

Development of the Bank will involve stream mitigation via stream and buffer restoration, enhancement, and preservation activities. The Bank may be developed in phases with subsequent phases developed in a manner similar to those approved by the Mitigation Banking Review Team (MBRT).

The sponsor has proposed for purposes of Section 404 of the Clean Water Act that the geographic service area of this stream mitigation bank would consist of those areas within the USGS Hydrologic Unit Codes known as 02080106, and the following adjoining hydrologic units: 02080105 and 02080107. This includes all or portions of Orange County, Spotsylvania County, Caroline County, King and Queen County, Hanover County, King William County, New Kent County, James City County, York County and Gloucester County.

For purposes of state wetland regulations, the proposed geographic service area will be consistent with the Code of Virginia as it relates to mitigation banking. Oversight of this stream mitigation bank will be by a group of federal and state agency representatives known as the Mitigation Bank Review Team (MBRT). The MBRT shall be chaired by the Norfolk District of the U.S. Army Corps of Engineers.

This stream mitigation bank may be one of a number of practicable options available to applicants to compensate for unavoidable stream impacts associated with permits issued under the authority of Section 404 and 401 of the Clean Water Act (Public Law 95-217) in southeastern Virginia. The actual approval of the use of this stream mitigation bank for a specific project is the decision of the Corps pursuant to Section 10 of the Rivers and Harbor Act and Section 404 of the Clean Water Act and by the Department of Environmental Quality pursuant to Section 401 of the Clean Water Act and Title 62.1 of the Code of Virginia. The Corps and the Department of Environmental Quality provide no guarantee that any particular individual or general permit will be granted authorization to use this stream mitigation bank to compensate for unavoidable stream impacts associated with a proposed permit, even though compensatory mitigation may be available.

AUTHORITY: A Public Notice is recommended pursuant to Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Federal Register Number 228).

FEDERAL EVALUATION OF PROPOSAL: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate this proposed stream mitigation bank. Any comments received will be considered by the Corps of Engineers in evaluating this proposal. Comments are used to assess impacts on endangered species, historic properties, water quality, conservation, economics, aesthetics, general environmental concerns, wetlands, fish and wildlife values, flood hazards, flood plain values, land use classification, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, and consideration of property ownership.

Preliminary review indicates that: (1) no environmental impact statement will be required; (2) no species listed as endangered or threatened under the Endangered Species Act of 1973 (PL 93-205) will be affected; and (3) archaeological and architectural sites considered eligible or potentially eligible for listing on the National Register of Historic Places have not been found within the project area. Additional information might change any of these preliminary findings.

STATE EVALUATION OF PROPOSAL: To comply with Section 401 of the Clean Water Act (the Act), any applicant for a Corps permit for a proposal which may result in a discharge to State waters must provide the Corps with a certification from the Virginia Department of

Environmental Quality, Water Division. They must certify that water quality will be maintained in accordance with Virginia Department of Environmental Quality, Water Division Law (state law) and that the activity will comply with the applicable provisions of Sections 301, 302, 303, and 306 and 307 of the Act. A certification must set forth any effluent limitations and other limitations, conditions and/or requirements needed to assure compliance with the Act itself and with other appropriate requirements of state law. In Virginia, the 401 Water Quality Certification is issued as a Virginia Water Protection Permit.

COMMENT PERIOD: Comments or requests for copies of the bank prospectus should be made in writing, addressed to Ms. Alicia G. Riley, US Army Corps of Engineers, Gloucester County Field Office, Post Office Box 209, Bena, Virginia 23018, and should be received by the close of

Business on **February 16, 2007**. Copies will be forwarded to the DEQ. If you have any questions about the permit process, call one of the following people:

1. U. S. Army Corps of Engineers
Ms. Alicia G. Riley (804) 642-0700
- 2 Virginia Department of Environmental Quality
Ms. Bettina Rayfield (804) 698-4204

FOR THE DISTRICT COMMANDER:

Michael A. Schwinn
Acting Chief, Northern Virginia
Regulatory Section

JANUARY 2007